IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Revision No.609 of 2004

DATE OF DECISION: NOVEMBER 13, 2006

Neetu alias Bhawana and another

...PETITIONERS

*VERSUS*

Deepak

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr.Deepak Gupta, Advocate,
for the petitioners.
Mr.Parminder Singh, Advocate,
for the respondent.

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The petitioners, who are wife and minor child of the respondent, respectively, have filed this criminal revision against the order dated 1.12.2003 passed by the Additional Chief Judicial Magistrate, Kurukshetra, whereby on an application filed by the petitioners under Section 125 Cr.P.C., the interim maintenance of Rs.500/- per month to petitioner No.1 and Rs.400/- per month to petitioner No.2 has been awarded from the date of application. In this petition, the petitioners have prayed for enhancement of the aforesaid amount of interim maintenance.

In this case, petitioner No.1 was married with the respondent on 25.4.2001. Out of the said wedlock, a child was born on 29.1.2002. It has been alleged that from the date of the marriage, petitioner No.1 has been harassed by the respondent and his family members on account of demand of dowry. It has been further alleged that they threatened petitioner No.1 that she would not be allowed to live in the matrimonial home unless she

brings a Maruti car from her father. It has been also alleged that the respondent and his family members after giving beatings turned petitioner No.1 from the matrimonial home on 2.6.2003 and since then she has been residing with her parents at their mercy at Shahbad Markanda along with her minor child. In this regard, an FIR has also been registered by the petitioner against the respondent and his family members under Sections 406/498-A IPC at Police Station Shahbad. It has been alleged that petitioner No.1 has no source of income and is unable to maintain herself and her minor child. On the other hand, the respondent is running a cloth shop besides a PCO booth and is earning about Rs.10,000/- per month.

In reply to the application under Section 125 Cr.P.C. filed by the respondent, it has been averred that the cloth shop is under the sole proprietorship of his father and PCO booth is also not of the respondent. It has been further averred that as the respondent was free previously, so he was helping his father in the shop.

The trial Court after going through the facts and circumstances of the case and perusing the record, allowed interim maintenance @ Rs.500/- per month to petitioner No.1 and Rs.400/- per month to petitioner No.2 from the date of application.

Feeling aggrieved against the aforesaid order, the petitioners have filed this criminal revision.

Counsel for the petitioners contends that the interim maintenance awarded to the petitioners is very low as in these days of rising prices, petitioners cannot maintain themselves with such a meager amount of Rs.900/- per month. Counsel further contends that since the respondent is earning more than Rs.10,000/- per month from the business of cloth house

and PCO booth, therefore, the petitioners are entitled to have maintenance amounting to Rs.6500/- per month approximately. Counsel also contends that the provisions of Section 125 Cr.P.C. are meant to achieve social purpose to protect woman and children as it provides a speedy remedy for supply of food, clothing and shelter to the deserted wife.

After hearing the counsel for the parties and keeping in view the facts and circumstances of the case, this petition deserves to be allowed. The petitioners have alleged that petitioner No.1 has no source of income and is unable to maintain herself and her minor child. After she was thrown out of the matrimonial home on 2.6.2003, she has been living at the house of her parents at their mercy. On the contrary, the respondent is working on the cloth shop of his father and helping him in his business. Therefore, it cannot be taken that he has not sufficient income to pay the maintenance amount to his wife and child. Keeping in view these facts, I am of the opinion that the amount of interim maintenance fixed by the trial Court is not reasonable and just.

Hence, this petition is allowed and the amount of interim maintenance awarded to petitioner No.1 @ Rs.500/- per month and petitioner No.2 @ Rs.400/- per month is enhanced to Rs.800/- and Rs.700/- per month, respectively, which shall be paid by the respondent from the date of filing of the petition in this Court, i.e., 19.2.2004.

November 13, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE